



PUBLIC NOTICE

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DA 03-1731

**WIRELINER COMPETITION BUREAU SEEKS COMMENT ON A PETITION BY
PUERTO RICO DEPARTMENT OF EDUCATION TO RELEASE FUNDS
ASSOCIATED WITH SCHOOLS AND LIBRARIES UNIVERSAL SERVICE SUPPORT
MECHANISM FOR FUNDING YEARS 2001 AND 2002**

PLEADING CYCLE ESTABLISHED

CC Docket No. 02-6

Release Date: May 16, 2003

Comment Date: May 28, 2003

Reply Comment Date: June 4, 2003

The Wireline Competition Bureau (Bureau) seeks comment on the Request for Relief of Puerto Rico Department of Education (PRDOE) to authorize commitment and disbursement of funds for funding years 2001 and 2002.¹

In the fall of 2000, the Universal Service Administrative Company (USAC) determined from a beneficiary audit that there were irregularities with PRDOE's E-rate funding commitments for funding year 1998.² Subsequent investigations revealed problems with funding years 1999-2000.³ Since that determination, USAC has made no further disbursements on funding years 1998, 1999, and 2000.⁴ Pending completion of the investigations, USAC has held PRDOE's applications for funding year 2001 and funding year 2002 without action.

¹ Letter from Dr. Cesar Rey Hernandez, Secretary, Puerto Rico Department of Education to Jane Mago, General Counsel, Federal Communications Commission, dated January 30, 2003 (*Request for Relief*).

² *Request for Relief* at 4 & Exhibit I (Appendix B of Arthur Andersen Audit Report, dated October 17, 2001).

³ Subsequent investigations, including analysis by PRDOE, have revealed additional problems with PRDOE's applications and/or E-rate projects for funding years 1998, 1999, and 2000, including competitive bidding violations, unaccounted for or missing equipment, Internet service to schools with no computers, and payments for service that was not provided or only partially provided. See, e.g., *Request for Relief* at Exhibit 3, Attachment at 4.

⁴ *Request for Relief at Exhibit II* (Letter from George McDonald, USAC to PRDOE, dated December 5, 2001).

In the fall of 2000, general elections resulted in a change of administration for the Commonwealth of Puerto Rico. The new administration instituted an independent review of the status of PRDOE's E-rate projects.⁵ PRDOE asserts that it received a preliminary report in September 2001 and a final report in March 2002 from its independent consultant regarding the status of its E-rate program, and has undertaken corrective measures. A number of vendors provided service to PRDOE during funding years 2001-2002, but have not received payment.

Meanwhile, in December 2001, USAC requested additional information from PRDOE. In January 2002, PRDOE responded to the request. PRDOE made additional presentations to USAC in April 2002 and October 2002. Subsequently, PRDOE formally requested that the Commission authorize USAC to release funding for funding years 2001 and 2002.⁶

In its Request for Relief, PRDOE pledges to continue to cooperate with investigations of funding years 1998-2000.⁷ It indicates that since so much time has elapsed since submitting its request for funding years 2001 and 2002, it may need to request service substitutions if those funds are released and that it will review those requests to ensure compliance with program rules. It commits to periodically retain an external independent professional firm to evaluate the operational aspects of its E-rate projects and future use of E-rate funds.⁸ PRDOE also states that it is committed to complying with all applicable local and federal laws.⁹

In the spring of 2003, the Commission was notified that a losing bidder challenged PRDOE's award of its funding year 2003 contract in Puerto Rico.¹⁰ Specifically, the losing bidder alleged that an employee of a company associated with the winning bid was involved in PRDOE's selection process.¹¹ SLD is currently investigating these allegations to determine if any program rules were violated.

We seek comment on PRDOE's Request for Relief and whether, in light of ongoing investigations for funding years 1998, 1999, 2000, and 2003, issuing such an order authorizing USAC to commit and disburse funds for funding years 2001 and 2002 would be consistent with the public interest. We seek comment on what actions, if any, the Commission should take to

⁵ See *PRDOE Request for Relief* at 2.

⁶ See *Request for Relief*.

⁷ See *id.* at 5-6.

⁸ *Id.* at 6.

⁹ *Id.* at 6.

¹⁰ *Puerto Rico Telephone Company, Inc. v. Junta de Subastas Central-Departamento de Educacion*, No. _____, Solicitud de Reconsideración de Adjudicación de Subasta (Junta de Revisión Administrativa Departamento de Educación, filed February 14, 2003).

¹¹ *Id.* at 17-19

ensure that funds are awarded and spent appropriately.

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§ 1.415, 1.419, interested parties may file comments on or before May 28, 2003, and reply comments on or before June 4, 2003. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.¹²

Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to <ecfs@fcc.gov>, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistrionix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission.

Parties also must send three paper copies of their filing to Sheryl Todd, Telecommunications Access Policy Division, Wireline Competition Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 5-B540, Washington, D.C. 20554. In addition, commenters must send diskette copies to the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20054.

Pursuant to section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, this proceeding will be conducted as a permit-but-disclose proceeding in which *ex parte* communications are permitted subject to disclosure.

For further information, contact Greg Lipscomb, Telecommunications Access Policy Division, Wireline Competition Bureau at (202) 418-7400, TTY (202) 418-0484.

¹² See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24121 (1998).

